

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF NEW YORK, *et al.*,

Plaintiffs

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1233 (CKK)

ORDER

Presently pending before the Court is the California Plaintiffs' "Reply Memorandum in Support of Their Motion for Leave to Intervene and to Clarify or Modify Protective Order." The California Plaintiffs' reply memorandum recounts that, pursuant to Order of the Court, the California Plaintiffs contacted the relevant third-parties and engaged in discussions with such third-parties in an effort to resolve any objections or disagreements regarding the proposed modification of the protective order in this case. The California Plaintiffs recount that they were able to reach agreement with a substantial majority of third-parties regarding the provision of documents to the California Plaintiffs, and that they and Microsoft are not "far apart in their attempts to resolve the California class plaintiffs' desire to access redacted and withheld materials" from the remedy proceedings. Cal. Pl. Reply at 2. The California Plaintiffs further report that seven third-parties have not responded to their attempts at communication, and therefore have failed to voice any objection to the California Plaintiffs' proposed access to

documents.¹ In addition, the California Plaintiffs represent to the Court that they have been unable to reach any sort of agreement with Dell Computer Corp., Hewlett Packard Co., Sony Electronics Inc., Applied Systems, Inc., Qwest Communications, Inc., and Opus-I, Inc. As the Court indicated in its previous order on this subject, those parties with whom the California Plaintiffs have been unable to reach agreement will be provided with an opportunity to file formal argument with this Court.²

Based on the foregoing, it is this 24th day of September, 2002, hereby

ORDERED that the California Plaintiffs shall file with the Court the proposed modification to the Protective Order in this case not later than September 30, 2002. Such modification shall reflect the terms agreed to by a number of third-parties generally, as well as any specific terms agreed to by the California Plaintiffs, Microsoft, and particular third parties. The California Plaintiffs' filing shall be in the form of a Proposed Order and may be accompanied by a memorandum to assist the Court if appropriate; and it is further

ORDERED that if, after continued efforts, third-parties Dell Computer Corp., Hewlett Packard Co., Sony Electronics Inc., Applied Systems, Inc., Qwest Communications, Inc., and Opus-I, Inc. remain unable to reach an agreement with the California Plaintiffs regarding modification of the Protective Order in this case, they shall file, jointly or individually, brief memoranda specifying the basis for their objections to the California Plaintiffs' motion to modify. Such memoranda shall be filed not later than October 7, 2002. Failure to file such

¹The Court interprets this silence as assent to the California Plaintiffs' proposed modification of the Protective Order in this case.

²The Court observes that one such third-party, Dell Computer Corp., has already filed renewed objections with the Court.

memoranda will be interpreted by the Court as assent to the California Plaintiffs' motion to modify.

SO ORDERED.

COLLEEN KOLLAR-KOTELLY
United States District Judge